

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action mailed June 13, 2005. At the time of the Office Action, Claims 1-68 were pending in the Application. Applicants amend Claims 1, 14, 15, 24 and 35 without prejudice or disclaimer. Applicants' amendments have been done to advance prosecution in this case and not to overcome prior art. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

Section 102 Rejections

The Examiner rejects Claims 1, 14-15, 24, 35, 44, 51 and 58 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,301,258 issued to Katseff II et al. (hereinafter “*Katseff II*”). Applicants respectfully request reconsideration of this rejection of the above-mentioned claims. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131.

Applicants respectfully submit that *Katseff II* does not disclose, teach, or suggest, either expressly or inherently, each and every element of amended Claim 1. For example, *Katseff II* does not disclose, teach, or suggest “a media rate controller . . . operable to generate a command for transmission to the external network device, the command requesting a subsequent transmission of streaming media from the external network device to the VoIP telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate.” *Katseff II* only discloses a “[b]uffer manger 150 clock[ing] the audio data *out* at a rate less than the normal rate (i.e., at less than the real-time rate).” Col. 4, ll. 48-50 (emphasis added). *Katseff II* clocks the audio data *out* of the telephony input buffer 129, rather than “generat[ing] a command . . . [to] request[] a subsequent transmission of streaming media . . . to the VoIP telephony device . . . at an adjusted delivery rate” as Claim 1 recites. Applicants respectfully submit that “clock[ing] the audio data *out*” (col. 4, l. 49) is not “generat[ing] a command for transmission to the external device,” as Claim 1 recites. Because *Katseff II* fails to teach at least these limitations, Applicants respectfully submit that

Katseff II cannot anticipate Claim 1 under 35 U.S.C. §102(e). Thus, Applicants respectfully request reconsideration and allowance of independent Claim 1 and its dependents.

Independent Claims 14, 15, 24, 35, 44, 51, and 58 each recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, *Katseff II* does not disclose, teach, or suggest, either expressly or inherently. Therefore, Applicants respectfully request reconsideration and allowance of independent Claims 14, 15, 24, 35, 44, 51, and 58 together with their dependents.

Section 103 Rejections

The Examiner rejects Claims 67 and 68 under 35 U.S.C. §103(a) as being unpatentable over *Katseff II* in view of U.S. Patent No. 6,804,244 issued to Anandakumar et al. (hereinafter “*Anandakumar*”). Claims 67 and 68 depend from Claims 1 and 15, respectively, which Applicants have shown above to be allowable. Accordingly, dependent Claims 67 and 68 are allowable over the prior art at least because of their respective dependencies. Additionally, dependent Claims 67 and 68 recite limitations that neither *Katseff II* nor *Anandakumar*, alone or in combination, disclose, teach, or suggest, either expressly or inherently. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 67 and 68.

The Examiner rejects Claims 2-13, 16-23, 25-34, 36-43, 45-50, 52-57 and 59-66 under U.S.C. §103(a) as being unpatentable over *Katseff II* in view of U.S. Patent No. 6,185,221 issued to Aybay (“*Aybay*”). Applicants respectfully traverse these rejections for the reasons stated below. Claims 2-13, 16-23, 25-34, 36-43, 45-50, 52-57 and 59-66 depend from independent Claims 1, 15, 24, 35, 44, 51, and 58 respectively, which Applicants have shown above to be allowable. Accordingly, dependent Claims 2-13, 16-23, 25-34, 36-43, 45-50, 52-57 and 59-66 are allowable over the prior art at least because of their respective dependencies. Additionally, dependent Claims 2-13, 16-23, 25-34, 36-43, 45-50, 52-57 and 59-66 recite limitations that neither *Katseff II* nor *Aybay*, alone or in combination, disclose, teach, or suggest, either expressly or inherently. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-13, 16-23, 25-34, 36-43, 45-50, 52-57 and 59-66.

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully requests reconsideration and allowance of the pending claims.

Applicants believe that no fee is due. If, however, this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
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